

MONTANA LEGISLATIVE HISTORY

Chapter 543 19 75

Bill H 154 S _____

Original bill & history ✓ C

H. Committee on Public Health, Welfare... S. Committee on Public Health, Welfare...

Hearing Date(s) 2-11 ✓ C

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2-15 ✓ C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

1 House BILL NO. 154
2 INTRODUCED BY Barbara L. Moran Bradley
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
5 LICENSING AND REGULATIONS OF PERSONS IN MONTANA REPRESENTING
6 THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH
7 PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED
8 SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF
9 SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND
10 DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING
11 SECTION 93-701-4, R.C.M. 1947."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 Section 1. Purpose. The legislature of the state of
15 Montana declares it to be a policy of this state that in
16 order to safeguard the public health, safety, and welfare,
17 and to protect the public from being misled by incompetent,
18 unscrupulous, and unauthorized persons, and to protect the
19 public from unprofessional conduct by qualified speech
20 pathologists and audiologists, and to help assure the
21 availability of the highest possible quality speech
22 pathology and audiology services to the communicatively
23 handicapped people of this state, it is necessary to provide
24 regulatory authority over persons offering speech pathology
25 or audiology services to the public.

1 Section 2. Definitions. As used in this act:
2 (1) "Board" means the board of speech pathologists and
3 audiologists.
4 (2) "Department" means the department of professional
5 and occupational licensing.
6 (3) "Speech pathologist" means one who practices
7 speech pathology and who presents himself to the public by
8 any title or description of services incorporating the words
9 "speech pathologist", "speech correctionist", "speech
10 therapist", "speech clinician", "language pathologist",
11 "language therapist", "language clinician", or any similar
12 title or description of services.
13 (4) "Speech pathology aide" means any person meeting
14 the minimum requirements established by the board of speech
15 pathology and audiology who works directly under the
16 supervision of a licensed speech pathologist.
17 (5) "Audiologist" means a person who practices
18 audiology and who presents himself to the public by any
19 title or description of services incorporating the words
20 "audiologist", "hearing clinician", "hearing therapist", or
21 any similar title or description of service.
22 (6) "Audiology aide" means any person, meeting the
23 minimum requirements established by the board of speech
24 pathology and audiology who works directly under the
25 supervision of a licensed audiologist.

1 (7) "Practice of speech pathology" means the
2 application of principles, methods and procedures for the
3 measurement, testing, evaluation, prediction, counseling or
4 instruction related to the development and disorders of
5 speech, voice, or language for the purpose of evaluation,
6 preventing, habilitating, rehabilitating, or modifying such
7 disorders and conditions in individuals or groups of
8 individuals.

9 (8) "Practice of audiology" means the application of
10 principles, methods and procedures of measurement, testing,
11 appraisal, prediction, consultation, counseling, and
12 instruction related to hearing and hearing impairment for
13 the purpose of modifying communicative disorders involving
14 speech, language, auditory function, including auditory
15 behavior related to hearing impairment.

16 (9) "Association" means the Montana speech and hearing
17 association.

18 (10) "ASHA" means the American Speech and Hearing
19 Association.

20 (11) "Unethical conduct" means:

21 (a) the obtaining of any fee by fraud or
22 misrepresentation;

23 (b) employing directly or indirectly any suspended or
24 unlicensed person to perform any work covered by this act
25 unless that person assumes the legal status of a supervised

1 aide;

2 (c) using or causing or promoting the use of any
3 advertising matter, promotional literature, testimonial,
4 guarantee, warranty, label, brand, insignia, or any other
5 representation, however disseminated or published, which is
6 misleading, deceiving, improbable or untruthful.

7 (12) "Provisionally licensed speech pathologist or
8 audiologist" means those speech pathologists or audiologists
9 who are currently practicing the profession in the state of
10 Montana, who do not meet the minimum requirements for
11 licensure as defined in this act and who are eligible for
12 provisional licensure conditioned on biennial evidence of
13 satisfactory progress towards meeting the requirements for
14 licensure as provided in this act. This provisional
15 licensure, as defined in this act, shall exist for no longer
16 than six (6) years from the date of enactment of this act
17 under any circumstance.

18 Section 3. License required. (1) A license shall be
19 issued to qualified persons either in speech pathology or
20 audiology. A person may be licensed in both areas if he
21 meets the respective qualifications and in such instances
22 the license fee shall be as though for one (1) license.

23 (2) No person may practice or represent himself as a
24 speech pathologist or audiologist in this state unless he is
25 licensed in accordance with the provisions of this act.

1 Section 4. License requirements to practice speech
2 pathology or audiology -- exempt activities. (1) Nothing
3 in this act shall prevent a person licensed in this state
4 under any other law from engaging in the profession or
5 business for which he is licensed.

6 (2) Nothing in this act shall restrict or prevent
7 activities of a speech pathology or audiology nature or the
8 use of the official title of the position for which they
9 were employed on the part of a speech pathologist or
10 audiologist employed by federal agencies.

11 (3) Those persons performing activities described in
12 subsection (2) of this section who are not licensed under
13 this act must do so solely within the confines of or under
14 the jurisdiction of the organization in which they are
15 employed and shall not offer speech pathology or audiology
16 services to the public for compensation over and above the
17 salary they receive for performance of their official duties
18 with organizations by which they are employed. However,
19 without obtaining a license under this act, such persons may
20 consult or disseminate their research findings and
21 scientific information to other such accredited academic
22 institutions or governmental agencies. They also may offer
23 lectures to the public for a fee without being licensed
24 under this act.

25 (4) Nothing in this act shall restrict activities and

1 services of a student in speech pathology or audiology from
2 pursuing a course of study in speech pathology or audiology
3 at an accredited or approved college or university or an
4 approved clinical training facility. However, these
5 activities and services must constitute a part of his
6 supervised course of study and no fee shall accrue directly
7 or indirectly to the student. These persons shall be
8 designated by the title "speech pathology or audiology
9 intern", "speech pathology or audiology trainee" or a title
10 clearly indicating the training status appropriate to his
11 level of training.

12 (5) Nothing in this act shall restrict a person from
13 another state from offering speech pathology or audiology
14 services in this state if such services are performed for no
15 more than five (5) days in any calendar year and if the
16 services are performed in cooperation with a speech
17 pathologist or audiologist licensed under this act. However
18 a person not a resident of this state who is not licensed
19 under this act but who is licensed under the law of another
20 state which has established licensure requirements at least
21 equivalent to those established by this act, or who is the
22 holder of the ASHA certificate of clinical competency in
23 speech pathology or audiology or its equivalent, may offer
24 speech pathology or audiology services in this state for no
25 more than thirty (30) days in any calendar year, if such

HB 151

1 services are performed in cooperation with a speech
2 pathologist or audiologist licensed under this act and by
3 securing a temporary license from the board subject to such
4 limitations as the board may impose.

5 (6) Nothing in this act shall restrict any person
6 holding a Class A certificate issued by the conference of
7 executives of American schools of the deaf from performing
8 the functions for which he qualifies.

9 (7) Nothing in this act shall restrict any person who
10 holds a certificate of registration in this state as a
11 hearing aid dealer from performing those functions for which
12 he qualifies and which are described in Title 66, chapter
13 30.

14 Section 5. There is a new R.C.M. section numbered
15 82A-1602.28 that reads as follows:

16 82A-1602.28. Board of speech pathologists and
17 audiologists -- appointment -- qualifications.

18 (1) There is a board of speech pathologists and
19 audiologists.

20 (2) The board consists of five (5) members who shall:

21 (a) be appointed by the governor from names submitted
22 to him by the association;

23 (b) have been residents of this state for at least one
24 (1) year immediately preceding their appointment; and

25 (c) have been engaged in rendering services to the

1 public, teaching, or performing research in the field of
2 speech pathology or audiology for at least five (5) years
3 immediately preceding their appointment.

4 (3) At least two (2) members of the board shall be
5 speech pathologists and at least two (2) shall be
6 audiologists, with the remaining member to be either. All
7 board members shall at all times be validly licensed in
8 speech pathology or audiology, except for the five (5)
9 members first appointed, who shall also fulfill the
10 licensure requirements of this act and in addition hold the
11 ASHA certificate of clinical competence in speech pathology
12 or audiology or its equivalent.

13 (4) Within thirty (30) days following the effective
14 date of this act the association shall recommend at least
15 three (3) and no more than five (5) persons for each of the
16 five (5) board positions created by subsection (2) of this
17 section. Not less than sixty (60) days before the end of
18 the board's first full calendar year of existence and,
19 thereafter, not less than sixty (60) days before the end of
20 each calendar year, the association shall recommend at least
21 three (3) and not more than five (5) persons for each
22 vacancy occurring at the end of the calendar year. In the
23 event of a vacancy for an unexpired term, the association
24 shall expeditiously recommend at least two (2) and not more
25 than three (3) persons to fill the vacancy and the governor

1 shall appoint one of those persons to fill the unexpired
2 term.

3 (5) The governor shall, within sixty (60) days after
4 the effective date of this act, appoint one (1) board member
5 for a term of one (1) year; two (2) for a term of two (2)
6 years; and two (2) for a term of three (3) years.
7 Appointments made thereafter shall be for three (3) year
8 terms with no person eligible to serve more than two (2)
9 full consecutive terms. Terms begin on the first day of the
10 calendar year and end on the last day of the calendar year,
11 except for the first appointed members who shall serve
12 through the last calendar day of the year in which they are
13 appointed before commencing the terms defined in this
14 section.

15 Section 6. Function of the board and department.

16 (1) The board shall meet at least once every year at a
17 place, day and hour determined by the board. The board
18 shall also meet at other times and places as the by-laws of
19 the board may provide or by call of the chairman or a
20 majority of the members of the board. A quorum of the board
21 shall consist of the majority of its members, but in no
22 instance shall a meeting of three (3) board members who are
23 exclusively speech pathologists or exclusively audiologists
24 be considered a quorum.

25 (2) Each board member shall receive actual and

1 necessary expenses incidental to board meetings and
2 business. Mileage shall be as provided in section 59-801.

3 (3) The department may employ persons it deems
4 necessary to carry out the provisions of this act.

5 (4) All meetings of the board for the consideration of
6 and action on matters coming before the board are open to
7 the public, except:

8 (a) matters involving the management of internal
9 affairs of the board may be considered and acted upon by the
10 board in executive meetings under rules prescribed by the
11 board;

12 (b) sessions to prepare, approve, grade or administer
13 examinations;

14 (c) upon request of a person who has failed the
15 licensing examinations and who is appearing to appeal the
16 failure.

17 (5) The board may make all rules which are reasonable
18 or necessary for the proper performance of its duties and
19 for the regulation of proceedings before it.

20 (6) The department shall prepare a report to the
21 governor as required by law.

22 (7) The board shall:

23 (a) administer, coordinate and enforce the provisions
24 of this act;

25 (b) evaluate the qualifications of each applicant for

HB 157

1 a license as issued under this act and supervise the
2 examination of such applicants;

3 (c) investigate persons engaging in practices which
4 allegedly violate the provisions of this act;

5 (d) conduct hearings and keep records and minutes as
6 the board considers necessary to an orderly dispatch of
7 business;

8 (e) adopt rules including but not limited to those
9 governing ethical standards of practice under this act;

10 (f) make recommendations to the governor and other
11 state officials regarding new and revised programs and
12 legislation related to speech pathology or audiology which
13 could be beneficial to the citizens of the state of Montana;

14 (g) cause the prosecution and enjoinder of all persons
15 violating this act, by the complaints of its secretary filed
16 with the county attorney, in the county where the violation
17 took place, and incur necessary expenses therefor;

18 (h) adopt a seal by which the board shall authenticate
19 its proceedings. Copies of the proceedings, records, and
20 acts of the board, signed by the chairman or secretary of
21 the board and stamped with the seal shall be prima facie
22 evidence of the validity of such documents.

23 Section 7. Qualifications and requirements for
24 licensure. To be eligible for licensing by the board as a
25 speech pathologist or audiologist, the applicant must:

1 (1) Meet the current academic, supervised clinical
2 practicum and post classroom sponsored employment
3 requirements of the ASHA.

4 (2) Pass an examination approved by the board. The
5 board shall determine the subject and scope of the
6 examination. Written examinations may be supplemented by
7 such oral examinations as the board shall determine. An
8 applicant who fails his examination may be re-examined at a
9 subsequent examination upon payment of another licensing
10 fee. An applicant who fails two successive examinations may
11 apply for re-examination after two years of additional
12 professional experience or training.

13 Section 8. Licensure issuance -- expiration --
14 renewal. (1) The board shall grant a license to each
15 person who meets the requirements for licensure as
16 prescribed in this act, and the department shall issue the
17 license.

18 (2) The license shall include the dates of issuance
19 and expiration, and shall bear a serial number.

20 (3) The license shall be signed by the secretary of
21 the board under the seal of the board.

22 (4) The department shall notify each person licensed
23 under this act relative to the date of expiration of his
24 license and the amount of the renewal fee. This notice shall
25 be mailed to each licensed speech pathologist or audiologist.

1 at least one (1) month before the expiration of the license.

2 (5) Renewal may be made at any time during the sixty
3 (60) days prior to the expiration date by application
4 therefor.

5 (6) Failure on the part of any licensed person to pay
6 the renewal fee by the expiration date does not deprive him
7 of the right to renew his license, but the fee shall be
8 increased ten percent (10%) for each month that the payment
9 of the renewal fee is delayed after the expiration date.
10 The maximum fee for delayed renewal shall not exceed twice
11 the normal renewal fee.

12 (7) Application for renewal following a lapse of one
13 (1) year or more shall be subject to review by the board,
14 and the applicant may be requested to complete an
15 examination successfully if the board so determines.

16 (8) Each year the department shall publish a list of
17 all persons licensed under the act containing their names
18 and addresses and such other information as the board
19 considers advisable. The department shall mail a copy of
20 this list to each person licensed under this act, place a
21 copy on file in the secretary of state's office, and furnish
22 copies to the public upon request.

23 (9) The board shall develop standards and methods of
24 documentation and establish procedures for causing
25 individuals who have been licensed to demonstrate continued

1 education before renewing any license more than twice.

2 Section 9. Qualifications and requirements for
3 licensure -- reciprocity and waiver. (1) Application for
4 examination for licensing a speech pathologist or
5 audiologist shall be made upon forms prescribed by the
6 board.

7 (2) Prior to July 1, 1976, the board shall license as
8 a speech pathologist or audiologist any person who pays the
9 prescribed fee, and who submits an affidavit that he meets
10 the current academic, supervised clinical practicum and post
11 classroom sponsored employment requirements of the ASHA.

12 (3) Prior to July 1, 1976, a provisional license may
13 be issued to an individual who holds a bachelor's degree
14 with a major in speech pathology or audiology, who has
15 accumulated one hundred seventy-five (175) clock hours of
16 clinical practicum, and who has worked in this state as a
17 speech pathologist or audiologist for at least one (1)
18 academic year. The provisionally-licensed speech
19 pathologist or audiologist must work under the direct
20 supervision of a licensed or certified speech pathologist or
21 audiologist. The extent to which direct supervision will be
22 provided for the provisionally-licensed speech pathologist
23 or audiologist will be determined by the supervising
24 clinician. Generally, the supervising speech pathologist or
25 audiologist shall provide direct assistance to the

1 provisionally-licensed speech pathologist or audiologist at
2 least four (4) days per month. Most of the contacts by the
3 supervising speech pathologist or audiologist shall be in
4 person, but other avenues of contact may be made. Those
5 persons granted provisional licensure shall complete the
6 academic, clinical practicum and examination requirements
7 for licensure within six (6) years after the effective date
8 of this act. Twelve (12) quarter-hour credits of additional
9 professional training towards licensure qualifications or
10 any other proposed educational plan that leads to the same
11 goal as presented to and approved by the board, must be
12 obtained every two (2) years for renewal of provisional
13 licensure. Provisionally-licensed speech pathologists or
14 audiologists who have not attained appropriate eligibility
15 status within six (6) years of the date of enactment, will
16 no longer be eligible to practice speech pathology or
17 audiology in the state of Montana, except for those persons
18 granted certification under subsection (8) of this section,
19 but may work as a speech pathology or audiology aide as
20 defined in this act.

21 (4) After July 1, 1976, all applicants must meet all
22 the requirements set forth in this act.

23 (5) The board may waive the examination described in
24 this act for those qualified applicants who, on the
25 effective date of this act, are actively engaged in the

1 practice of speech pathology or audiology in this state,
2 providing that they file a license application within one
3 (1) year of the effective date of this act.

4 (6) The board shall waive the examination and grant a
5 license to applicants who present proof of a current license
6 in a state which has standards equivalent to or greater than
7 those of this state.

8 (7) The board shall waive the examination and grant a
9 license to those who hold the certificate of clinical
10 competence of the American Speech and Hearing Association in
11 the area for which they are applying for a license.

12 (8) The board shall, on presentation and documentation
13 in writing by a petitioner have the prerogative of granting
14 licensure to an individual who does not have all the formal
15 requirements specified in this act. This prerogative shall
16 be used only for unusual or special circumstances and shall
17 be determined by the board in each individual case.

18 Section 10. Examination. (1) Except as otherwise
19 provided in this act, an applicant shall be examined for
20 speech pathology or audiology by the board, and shall pay to
21 the board, at least thirty (30) days prior to the date of
22 the examination, the examination fee for each examination as
23 prescribed by this act.

24 (2) The board shall examine by written examination
25 given at least twice a year at a time and place and under

1 such supervision as the board may determine. In addition an
2 oral examination may be required by the board. Standards
3 for acceptable performance shall be determined by the board.

4 (3) The board may waive the written examination for
5 certification if the applicant has successfully passed the
6 National Examination in Speech Pathology or Audiology.

7 (4) The board may examine or direct the applicant to
8 be examined for knowledge in whatever theoretical or applied
9 fields of speech pathology or audiology as it considers
10 appropriate. It may also examine the candidate with regard
11 to his professional skills and his judgement in the
12 utilization of speech pathology or audiology techniques and
13 methods.

14 (5) The department shall maintain a permanent record
15 of all examination scores.

16 (6) The board shall keep an accurate transcript of the
17 oral examination if any. Transcripts of oral examinations
18 shall be retained by the board for at least one (1) year
19 following the date of examination.

20 (7) A speech pathologist or audiologist who holds ASHA
21 certification or equivalent or is licensed in another state
22 and who has made application to the board for a license in
23 this state, may perform activities and services of a speech
24 pathology or audiology nature without a valid license
25 pending disposition of application.

1 Section 11. Licensing. (1) The amount of fees
2 prescribed in connection with a license as a speech
3 pathologist or audiologist shall be as follows, the exact
4 fee to be determined by the board each year based on costs
5 and predicted expenditures:

6 (a) application and examination fee for a license, no
7 less than \$50 nor more than \$100;

8 (b) license fee, and renewal thereof, no less than \$25
9 nor more than \$100.

10 (2) All moneys received by the department shall be
11 deposited in the state treasury to the credit of the
12 earmarked revenue fund for the use of the board and subject
13 to section 82A-1603(6).

14 (3) Each licensed speech pathologist or audiologist
15 shall on or before July 31 of the year of expiration of his
16 license pay to the board the fee for the renewal of his
17 license.

18 (4) Renewal will be every two years beginning on July
19 1 of the appropriate year.

20 (5) A suspended license is subject to expiration and
21 may be renewed as provided in this section, but such renewal
22 does not entitle the licensee while the license remains
23 suspended to engage in the licensed activity, or in any
24 other activity or conduct which violates the order or
25 judgment by which the license was suspended.

HB 157

(6) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(7) A person who fails to renew his license within the four (4) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter; but such a person may reapply for and obtain a new license if he meets the requirements of the act.

(8) No license tax shall be imposed upon speech pathologists or audiologists by a municipality or any other subdivision of the state.

Section 12. Powers of board over licensees -- unprofessional conduct defined. (1) The board may refuse to issue or renew a license, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to:

(a) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(b) being found guilty of unprofessional conduct, or having violated ethical standards of practice established pursuant to this act;

(c) violating any lawful order or rule of the board;

(d) violating any provision of this act.

(2) Denial, suspension or revocation of a license is permissible only after a hearing and procedures which comply with all applicable requirements of the Montana Administrative Procedure Act.

(3) One year after denial, suspension, or revocation of a license, a person may reapply for a license. The board may in its discretion require an examination for reinstatement.

(4) Where an applicant or licensee has been convicted of a felony or a crime involving moral turpitude, the board may suspend or revoke his license, or may decline to issue a license when:

(a) the time for appeal has elapsed;

(b) the judgment of conviction has been affirmed on appeal;

(c) an order granting probation is made suspending the imposition of sentence.

Section 13. Penalty. A person convicted of violating this act shall be fined not to exceed five hundred dollars (\$500) or be imprisoned in the county jail for any term not

1 to exceed six (6) months, or both.

2 Section 14. Injunction of unlawful practice --
3 restrictions on scope of practice. The practice of speech
4 pathology or audiology in any way other than as defined in
5 this act may be enjoined by the district court on petition
6 by the board.

7 Section 15. Section 93-701-4, R.C.M. 1947, is amended
8 to read as follows:

9 "93-701-4. Persons in certain relations cannot be
10 examined. There are particular relations in which it is the
11 policy of the law to encourage confidence and to preserve it
12 inviolate; therefore, a person cannot be examined as a
13 witness in the following cases:

14 1. A husband cannot be examined for or against his wife
15 without her consent; nor a wife for or against her husband
16 without his consent; nor can either, during the marriage or
17 afterward, be, without the consent of the other, examined as
18 to any communication made by one to the other during the
19 marriage; but this exception does not apply to a civil
20 action or proceeding by one against the other, nor to a
21 criminal action or proceeding for a crime committed by one
22 against the other.

23 2. An attorney cannot, without the consent of his
24 client, be examined as to any communication made by the
25 client to him, or his advice given thereon in the course of

1 professional employment.

2 3. A clergyman or priest cannot, without the consent of
3 the person making the confession, be examined as to any
4 confession made to him in his professional character in the
5 course of discipline enjoined by the church to which he
6 belongs.

7 4. A licensed physician or surgeon cannot, without the
8 consent of his patient, be examined in a civil action as to
9 any information acquired in attending the patient, which was
10 necessary to enable him to prescribe or act for the patient.

11 5. A public officer cannot be examined as to
12 communications made to him in official confidence, when the
13 public interests would suffer by the disclosure.

14 6. Any person engaged in teaching psychology in any
15 school, or who acting as such is engaged in the study and
16 observation of child mentality, shall not without the
17 consent of the parent or guardian of such child being so
18 taught or observed testify in any civil action as to any
19 information so obtained.

20 7. A counselor, psychologist, nurse, or teacher,
21 employed by any educational institution, cannot be examined
22 as to communications made to him in confidence by a duly
23 registered student of such institution, provided however,
24 that this provision shall not apply where consent has been
25 given by the student, if not a minor, or if he is a minor,

HB 154

1 by the student and his parent or legal guardian.

2 8. A publisher, editor, reporter or other person
3 connected with or employed upon a newspaper, or by a press
4 association or wire service, or any person who has been so
5 connected or employed, cannot without his consent be
6 examined as to any communication made to him in confidence
7 for the purpose of proper publication nor shall he be
8 adjudged in contempt by a court, the legislature or any
9 administrative body for refusing to disclose the source of
10 any information procured while so connected or employed for
11 publication and published in a newspaper.

12 Nor can a radio or television news reporter or other
13 person connected with or employed by a radio or television
14 station, or any person who has been so connected or
15 employed, without his consent be examined as to any
16 communication made to him in confidence for the purpose of
17 proper publication nor shall he be so adjudged in contempt
18 for refusing to disclose the source of any information
19 procured while so connected or employed for news or news
20 commentary purposes on radio or television.

21 9. A speech pathologist or audiologist cannot, without
22 the consent of his client, be examined as to any
23 communication made by the client to him."

-End-

STATE OF MONTANA

REQUEST NO. 71-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 154 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 154 would redefine the "Final Salary" relating to the judges' retirement system.

ASSUMPTIONS:

1. Prior to July 1, 1967, judges' retirement system "Final Salary" was the annual current salary for the appropriate office. Senate Bill 154 reinstates the current salary as the basis for computation of retirement pay.
2. Only five judges and one justice have been appointed or elected since July 1, 1967; therefore, only six of the present 29 members would be affected. The remainder are already eligible for retirement under the "current salary" based system.

CONCLUSIONS:

Actuarial projections necessary for predicting expenditure implications of Senate Bill 154 will not be available until the last week in February, 1975. Any additional retirement expenditures will have an adverse effect on the overall funding of the system since additional funding has not yet been provided to cover the July 1, 1974 25% salary increases.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 27, 1975

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PUBLIC HEALTH, WELFARE
AND SAFETY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
123	Allow board of medical examiners to waive personal appearance before board for a license to practice.	1/17	Murphy Dassinger	2/6	DO PASS	2/6
124	Allow board to revoke license when holder has had licence revoked by another jurisdiction.	1/17	Murphy Dassinger	2/6	DO PASS	2/6
129	Declare certain practices of odoriferous estab. such as feed lots to be public nuisances.	1/17	Brand Menahan	1/30 2/20	(subcommittee) DO NOT PASS AS AMENDED	2/20
132	Require timely pymt to certain recipients of grants & other monies from SRS.	1/17	Holmes Driscoll	2/6 2/25	(hold) TABLE INDEFIN- ITELY	
133	Require counties w/i designated mental health regions to participate in regional mental health ctrs.	1/17	South	2/11	DO PASS	2/11
154	Provide license for speech-related professions & to create a board of speech pathology & audiology	1/20	Bardenouve Mercer	2/11 2/15	(subcommittee) AS AMENDED DO PASS	2/15

a meeting was held February 11, 1975, at 10:30 in Room 108, of the Capitol Building. All members were present.

The following bills were heard in this order: HB 133
HB 154
HB 239
HB 326

#133--SOUTH, district 51, said this bill would require all 56 counties to participate in a mental health center. Right now, 45 do, and 14 don't. He said that this is perhaps the reason for the large number of people committed to mental health institutions. He felt that screening in these different regions would eliminate this, and also the personality problems involved. This would also allow a person to go back to the region office for future help. Bardanoue, district 6, felt that they should be screened at the local level. Charles Gillespie, Human Services Project, said that since the trend is towards deinstitutionalization, then it would be mandatory to have centers at the local level, acting as satellite progress centers.

Opponent Dean Zinnecker, Montana Association of Counties, asked if mental health care is a priority of local or state government, and that if it is to be local, that it be administered locally. He said that of the 14 counties that don't comply, 2 of them do not feel that it is necessary, since they are fully staffed in mental health services.

Under questioning, Bardanoue said that funding for this mental health program would be done through the Warm Springs budget. Holmes asked Mr. Zinnecker if these 14 counties approved of his opposed representation of this bill, and he replied that he did not know. Dussault asked if this was based on a sliding income scale and Zinnecker said yes.

#154--BARDANOUVE, district 6, said that this is a licensure bill for Speech Pathology and Audiology, which would give the board control of their profession, so that clients would be treated by professional people. Proponent Doug Wing, Montana Speech and Hearing Association, said this bill is needed to certify qualified people to work with the communicatively handicapped people. He said their group has been working on the bill for over a year, and said that the state Superintendent of Public Instruction also supports it. Dr. Charles Parker, University of Montana, Department of Speech and Audiology, said this bill is to protect the consumer, that they must have a way of assessing qualifications of their profession. 18 states have such a licensure, and listed three features of the bill: 1) only state to require licensure in this field; 2) contains a restrictive grandfather clause, and 3) has a continued education clause. Merle Devoe, Montana Speech and Hearing Association, said numerous abuses have occurred without this licensure. They have not been able to find qualifying material on anyone in this field, and it permits private persons

make contacts with families. James Meldrum, Department of Health, said this would provide guidelines as to who to contract with, and would also establish minimum credentials. Submitted WS I.

Opponent John Sweeney, Hearing and Aid Center, introduced Jess Johnson, Montana Board of Pharmacists, said that there is no proven need for such licensure, and may be detrimental and confusing to the public. He said this would destroy normal delivery process, especially to hearing aid dealers. 15 of the 16 centers in the state are in schools or with the government, which provides for their supervision and protection. Loreen Folsom, Boulder, opposed the bill for a number of reasons: 1) She said that she could find no grandfather clause that was substantive. 2) It would require monetary support of the American Speech and Hearing Association, or to provide funds for a private association, 3) It would require certification by the American Speech and Hearing Association for clinical competency requirements for supervision, and 4) Bill requires continued education without adequate education in the state, and also the geological difficulty of obtaining it.

Rep. Bardanouve said that he was horrified by the number of teachers posing in this position without any qualifications, and said that they did not have to be a member of the American Association for Speech and Hearing. Harper asked if there would be competition between hearing aid dealers and speech pathologists, and Mr. Sweeney said he could not see it, but that at present they are plagued with third party payments, and that the competition would not be commercial, but that they would control the field of hearing aid distribution. Harper asked if he were to strike ss 7, page 7, if they would object, and Mr. Sweeney said yes. Finley asked if this would affect screening by public health nurses, and Mr. Wing said no. Rep. Dussault asked if they would object to amending the board members to include a citizen who is not a professional, and Mr. Wing said no.

39--CONROY, 58, said section 3 explains the purpose of the bill. He said that sample drugs are given away so that prescriptions would eventually be filled by this. Jess Johnson, Montana Board of Pharmacists, supported the bill, saying this would stop distribution of discontinued drugs, would enhance better control of public health, and would eliminate waste, thus reducing costs to the consumer. Storage of drugs. Rod Gudgel, Montana Pharmacists Association, said a result of a survey of the members of the association showed 78% favored this bill, and also the American College of Apothecary.

Opponent Loendorf, MMA, explained how and why physicians used

B #154--HARPER MOVED TO AMEND PAGE 7, SS (7), BY STRIKING THIS SECTION IN ITS ENTIRETY. He said that people are constantly hampered by these people, and he would like to make them liable to the board of audiologists. He said that hearing aid dispensing is just as responsible as dispensing with eye glasses. Gould did not feel that they should use this act as a vehicle to get at these people. MOTION CARRIED.

BABCOCK MOVED TO DEFER ACTION TO MAKE SURE THERE WOULD NOT BE ANY CONTRADICTIONARY MATERIAL, WITH ROGER TIPPEY, AND REPS. HARPER AND RASMUSSEN AS MEMBERS. Harper said he did not want to ruin the profession completely, but that they cannot diagnose.

B #239--FINLEY MOVED DO NOT PASS, SECONDED BY GOULD.

FAGG MOVED A SUBSTITUTE MOTION TO PLACE THIS BILL IN A SUBCOMMITTEE. MOTION CARRIED WITH ALL IN FAVOR EXCEPT GOULD, DUSSAU BABCOCK, RASMUSSEN OPPOSED. Subcommittee members are Anderson Fagg, Lester. Finley asked that they check the validity of the testimonies received from the Medical Association, as the one received contradicted with the one presented by Jess Johnson.

B #326--FINLEY MOVED AS AMENDED DO PASS, BABCOCK MOTION CARRIED.



WILLIAM MENAHAN, Chairman


Gloria Wong, Secretary

NAME Dave Wingo Bill No. 154
ADDRESS 1225 B. St. - 9th Floor Date 2-11-75
WHOM DO YOU REPRESENT? Luxury goods company
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Charles D Parker Bill No. 154
ADDRESS 615 Evans - Missoula Date 9/11/25
WHOM DO YOU REPRESENT? SELF
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

For the protection of the consumer of speech
pathology and/or audiology services licensure is
necessary step in my opinion.

NAME

Bill No.

ADDRESS

Date

WHOM DO YOU REPRESENT?

SUPPORT

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*... of
... ..
... ..
... ..*



Department of Health and Environmental Science

STATE OF MONTANA HELENA, MONTANA 59601

John S. Anderson M.D.
DIRECTOR

The State Department of Health and Environmental Sciences is in support of House Bill 154, an act for the Licensing and Regulating of Speech Pathologists and Audiologists.

This Act would set a standard procedure for selecting those speech pathologists and audiologists to contract with the State Department of Health and Environmental Sciences for the purpose of providing speech and hearing correction to the citizens we serve. The standard procedure would then be the same for the selection of speech pathologists and audiologists and all other professionals providing contracted services for the Department, that is licensure in their specialty. We additionally require eligibility for certification within their specialty such as in medicine, orthopedics, pediatrics, plastic surgery, and ear, nose and throat. This Act will automatically treat the eligibility for certification because the requirements for licensure are similar to those for certification.

The current procedures used to select speech pathologists and audiologists to contract with for these services are usually done on a personal knowledge which is grossly unfair to the new professional, who may be qualified to provide such services.

This Act will not only assist us in determining those to contract with, but will establish minimum credentials for the practice of speech pathology and audiology which now is nonexistent on a uniform state-wide basis.

NAME Meldrum, James Bill No. HB 157
ADDRESS 201 Graham Date 2-11-75
WHOM DO YOU REPRESENT? State Dept. of Health
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

A Hachee

Gentlemen of the Health & Welfare Committee, we appear before you as concerned citizens of Montana in opposition to H.B. 151

We feel there is no proven public need for Audiology Licensing. Licensing for all its surface desirability is inappropriate in certain circumstances and to certain professions. Unless carefully formulated and discriminately executed, it may prove detrimental to the public interest and thereby, circumvent the very purposes for which it was enacted.

Bills which have been proposed for licensing audiologists fall into this category. The models which have been drafted are ambiguous and would lead to public confusion. In certain areas, they fail to provide exact definition needed to enforce the law properly. In addition, they tend to destroy the normal delivery system of services to the hearing handicapped with ensuing disruption to public service and the members of the hearing health team, especially the hearing aid dealers.

The position we take is that licensing itself is intended to protect the public health, safety, and welfare. If what these people do has true value to the public, then let them merchandise it at its value to the public. Then and only then, would the circumstances be such that regulation via license might have some merit.

The best information we have available to us indicates that there are about 16 clinical audiologists in Montana. Only one of them, as we understand it, has a private practice and deals directly with the public. This same person is licensed under the Hearing Aid Dispensers Licensing Board, and therefore the public is protected in his case (or provisions for protection are there).

The remaining 15 teach or are employed in the public school system or government, which has supervision and regulations necessary to protect the public. How can we justify a licensing bill for this small group of people?

You may say "but they also want to license the speech pathologist to increase the number", and indeed they do, so let us look at this. A good estimate is that there are approximately 170 such speech pathologists in Montana and it is felt by some within those ranks that at best 75 will become licensed if H.B. 154 were to become law.

Now, it has been said by some who propose this bill, that there are some who have a private practice in speech pathology. But to date, we have not had them supply us with the name or address of a single one who derives his livelihood from such a private practice. Speech pathologists have traditionally been employed by the school system or the university system. We understand that some are doing a little private tutoring on the side on occasion, but it is rare. There has been no proof forthcoming that would indicate that the entire group can show that even as much as 1% of their total income comes from dealing directly with the public on a fee basis. So at this point, one might ask if it makes sense for the taxpayer who is already supporting these people in Montana to create a protective fence around this group. It would seem to be the opening of a door for the licensing of every specialty group in all fields.

H.B. 154 makes no direct provision for public recourse to the Board, nor does it provide for a consumer or public member on the

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H.B. 154 makes no direct provision for public recourse to the Board, nor does it provide for a consumer or public member on the Board; and if that is the intent of the 5th Board member then no provision has been made for a physician or for a hearing aid specialist. Both of these disciplines are directly related in the work of the two

...seeking this new license, and both would be in a position to contribute helpful input, if it were needed. The present proposed Board structure appears to be strictly fence-me-in legislation.

H.B. 154 does not indicate its own code of ethics, but instead attempts to use the code of ethics of a private out-of-state organization, the American Speech and Hearing Association. This tends to delete state control and permit external control.

Another protective device seems to be in H.B. 154, but it may not be there for the protection of the public, but rather, for the preservation of the group seeking a license. I refer to the fact that in the last couple of years some of the physicians have found they do not need these highly academically trained and expensive people to do a good job. Training programs have been established elsewhere (notably the Veterans' Administration) to provide technicians with the skills through a vocational training rather than an academic training. This Bill would keep this from being an acceptable source regardless of the ability of the technician in Montana, because of the power that is granted to the American Speech and Hearing Association. In this Bill 154 you can bet there would be a closed shop to people not interested in, or capable of, certification by the American Speech and Hearing Association..

H.B. 154 as it is written appears only to give a legal status to a small group of people, for funding purposes on third party payments (Medicaid, Medicare and Social and Rehabilitative Services).

We fail to see where the Montana public would benefit enough from the passage of H.B. 154 to warrant the expense. We ask that you reject this Bill as being too ambiguous.

February 15, 1975

154--Harper said that the amendments to restrict hearing aid dispenser could jeopardize the bill, and recommended to leave the bill as is with the suggested amendments of the subcommittee. Mr. Tippy, legal advisor, pointed out that the federal gov't plans on passing legislation to restrict hearing aid dispensers from having diagnostic capacity.

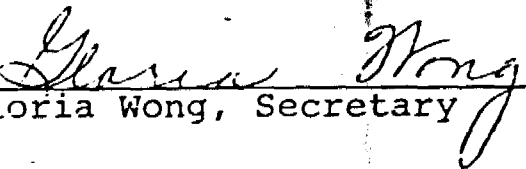
HARPER MOVED TO RETRACT HIS AMENDMENT, TO STRIKE SUBSECTION (7), AND TO REINSERT THIS SUBSECTION IN ITS ENTIRETY, AND THAT HB 154 AS AMENDED DO PASS, MOTION CARRIED UNANIMOUSLY.

239--The subcommittee submitted suggested amendments to the committee. Rep. Anderson submitted another amendment on page 2, lines 6 & 7 by striking the rest of the sentence following "(\$500)". He said this would allow those who prescribe drugs to also dispense them. **PAGG MOVED THAT THE ABOVE AMENDMENTS DO PASS, AND AS SO AMENDED, HB 239 DO PASS.** Anderson further explained that his amendment would effect the way a doctor would receive drugs, and not the way he received them. Holmes recommended to amend page 1, lines 20-22, by striking "A specific and individual request must be submitted to the manufacturer for each shipment of a sample drug."

The committee suggested that these amendments be prepared in written form so that they may study them closer.

There being no further business, the meeting was adjourned to reconvene February 18, 1975.


WILLIAM MENAHAN, Chairman


Gloria Wong, Secretary

STANDING COMMITTEE REPORT

Mr. _____

We, your committee on _____
having had under consideration House Bill No. 154, respectfully
report as follows: That House Bill No. 154, introduced bill
be amended as follows:

1. Amend page 5, Section 4, line 5.
Following: "licensed"
Insert: "except that a hearing aid dispenser licensed
under Title 66, chapter 30 may not engage in the
practice of audiology without the supervision
of an audiologist licensed under this chapter"
2. Amend page 7, Section 4, lines 9 through 13.
Strike: Subsection (7) in its entirety.
3. Amend page 7, Section 5, line 20.
Following: "members"
Strike: "who"
Insert: ",four (4) of whom"
4. Amend page 8, Section 5, line 6.
Following: "to be"
Strike: "either"
Insert: "a public member who is a consumer of speech
pathology or audiology services and who is
not a licentitate of the board or of any other
board within the department"
5. Amend page 23, Section 15, line 22.
Following: "examined"
Insert: "in a civil action"

1975
Senate

44th

LEGISLATIVE SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
20	1-28-75	3-13	3-13-75						3-13-75
28	1-22-75	3-6	3-5-75				3-5-75		
45	1-31-75	3-13, 3-15	3-18-75					3-18-75	
63	3-7-75	3-19, 3-22	3-22-75				3-22-75		
72	1-28-75	2-1, 2-25	2-25-75					2-25-75	
73	2-5-75	3-8, 3-13	3-13-75						3-13-75
86	2-4-75	3-18-75	3-18-75				3-18-75		
123	2-12-75	2-27-75	2-27-75				2-27-75	WITHOUT RECOMMENDATION	
124	2-12-75	2-27-75	2-27-75				2-27-75		
133	2-17-75								
154	2-24-75	3-11, 3-13	3-13-75					3-13-75	
239	2-26-76	3-18-75	3-18-75				3-18-75	WITHOUT RECOMMENDATION	
326	2-17-75	3-18-75	3-18-75						3-18-75
346	2-18-75	3-11,	3-11-75						3-11-75
351	2-22-75	3-13	3-13-75					3-13-75	
353	2-24-75	3-15	3-18-75				3-18-75		
356	2-18-75	3-11	3-11-75					3-11-75	

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 11, 1975

The twenty-first meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Norman on the above date in Room 405 of the State Capitol Building at approximately 11:00 a.m.

ROLL CALL: All members were present with the exception of Senator Lee.

CONSIDERATION OF HOUSE BILL NO. 154: An act providing for the licensing and regulation of persons in Montana representing themselves as speech pathologists, audiologists, speech pathology or audiology aides, and provisionally certified speech pathologists or audiologists, and creating a board of speech pathology and audiology, prescribing its powers and duties; providing penalties for violations, etc.

Representative Bardanoue, chief sponsor, explained the bill and stated that his wife, a speech pathologist, was very much in support of this bill to license these professionals.

He then introduced Mr. Doug Wing, of the Montana Speech and Hearing Association, a proponent, who felt that people in speech pathology are professionals in their field and should be licensed as such.

Dr. John Anderson, representing the Department of Health and Environmental Sciences, said the department was fully in support of the bill.

Dr. Charles Parker, from the University of Montana, felt this bill was a consumer protection bill, giving people the assurance that when they seek assistance and advice from these people, they are getting the most competent advice possible.

Shirley DeVoe of the Montana Speech and Hearing Association and proponent, felt these people are very qualified and should be licensed as such.

An opponent, Mr. John Sweeney, representing the Montana Hearing Aid Dealers Society, saw no need to license people who are already employed by the state and felt they should be judged solely on their own qualifications. He felt the organization of ASHA is running enough and shouldn't run this licensing, too.

Mr. Gennest was a member of the Hearing Aid Dealers Licensing Board in opposition of the bill because he felt this would take the rights away from hearing aid dealers of selling and applying hearing aids.

In closing, Representative Bardanove said there was no requirement to be a member of ASHA... only that those pursuant to a license meet the standards set forth by ASHA.

He gave several examples of people who received professional assistance from speech therapists and audiologists.

Hearing of testimony was then closed on House Bill 154 as there were no further proponents or opponents.

In questions from the committee, Senator Olson asked Dr. Parker if audiologists could dispense or prescribe hearing aids. He explained it was possible but they usually didn't. Senator Olson also wanted to know if a teacher in a school who was teaching speech pathology or audiology would have to obtain a license. Under the bill it was felt they would.

CONSIDERATION OF HOUSE BILL NO. 386: Representative Menahan presented this bill which would authorize the Board of Cosmetologists to regulate and license persons engaged in the practice of electrology is practiced.

Ed Carney, representing the Board of Cosmetologists, gave a brief explanation of the bill and told why it was necessary to have electrologists licensed.

There were no opponents and with no further testimony or questions, hearing on HB 386 was closed.

ACTION ON HOUSE BILL NO. 386: Senator Blaylock moved HB 386 BE CONCURRED IN. The motion was carried with Senator Lee absent and Senator Colberg and Senator Himsel voting against.

CONSIDERATION OF HOUSE BILL 356: An act amending Sections 69-5204 and 69-5205, R.C.M. 1947, relating to license fees for Hospitals, hospital related facilities, and long-term care facilities.

Representative Ann Mary Dussault was chief sponsor of this bill which she said would amount to a \$8,100 total general fund to offset the total state licensing budget.

She then introduced Mr. George Fenner, administrator of the Hospital and Medical Facilities Division of the Department of Health and Environmental Services, who gave testimony in favor stating the purpose and necessity of the bill. (See Attachment 1).

Mr. Bill Leary of the Montana Hospital Association also gave testimony in favor of this bill (See Attachment 2).

Opponents discussion and questions were held

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

44th LEGISLATIVE SESSION -- 1975

Date _____

[illegible]

VISITOR'S REGISTER

NAME	REPRESENTING	Check One Support	Oppose
1. [Name]	Montana [Organization]	HB 154	
2. [Name]	Montana [Organization]	HB 154	
3. [Name]	Univ. Montana	✓ HB 154	
4. [Name]	School for Deaf & Blind	HB 154	
5. [Name]	Rehabilitation Center, Mela	HB 154	
6. [Name]	[Organization]	HB 154	
7. [Name]	Montana Mental Health Assn.	HB 446	
8. [Name]	Deaf & Blind School		
9. [Name]	[Organization]	HB 154	
10. [Name]	Montana Medical Assoc.	HB 154	
11. [Name]	[Organization]	HB 154	
12. [Name]	[Organization]	HB 154	
13. [Name]	Warm Springs State Hospital	HB 446	
14. [Name]	Warm Springs State Hospital	HB 446	
15. [Name]	JURO'S HEARING CONVS.	HB 154	
16. [Name]	Montana Hearing Aid Association	HB 154	
17. [Name]	[Organization]	HB 154	
18. [Name]	Montana H. Aid Assn.	HB 154	
19. [Name]	Montana Nursing Home Assn	Amend 4/6	356
20. [Name]	Montana Mental Assn	356	
21. [Name]	Dept of Health	356	
22. [Name]	Mental Health Association	446	
23. [Name]	Mental Health Assn.	446	

The meeting was then recessed until the Senate session was adjourned for the day at 3:30.

ROLL CALL: All members were present for this meeting to take action on several bills which had been heard.

ACTION ON HB 73: Senator Stephens moved HB 73 BE NOT CONCURRED IN. In discussion, it was felt by the committee that R.N.'s could serve in this capacity and they would be considerably more educated than P.A.'s. It was also felt that because of pressures on doctors, P.A.'s would be allowed to make decisions they shouldn't and thus downgrade the practice of medicine.

Senator Blaylock felt that this bill would assist doctors in rural areas which is where they are needed. In a roll call vote all voted in favor of the motion except Senators Blaylock and Colberg.

ACTION ON HB 154: Senator Lee offered an amendment (See Attached Standing Committee Report) and moved the amendment be accepted. All but Senator Norman were in favor of the motion. He felt the amendment might give audiologists too much leeway.

Senator Blaylock moved HB 154 BE CONCURRED IN AS AMENDED. All voted in favor except Senator Himsl and Senator Olson.

ACTION ON HB 20: Senator Blaylock offered two amendments and Woody Wright offered "clean-up" amendments (See Standing Committee Report). Senator Blaylock moved the amendments be adopted. The motion carried unanimously.

Senator Olson then moved HB20 BE NOT CONCURRED IN AS AMENDED. In discussion, the committee generally felt there should be a bill offered to actually define what a chiropractor can do. They felt this bill was too open.

Senator Blaylock felt it should be passed because if it wasn't we could conceivably go in and arrest practicing chiropractors who are presently taking blood tests, urinalyses, etc.

In a roll call vote, 5 voted for Senator Olson's motion and 3 voted against.

ACTION ON HB 351: Senator Colberg moved amendments offered by Representative Holmes be adopted. All were in favor. Senator Lee moved HB 351 BE NOT CONCURRED IN AS AMENDED.

HB 351 was reported out without recommendation with 4 voting

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

44th LEGISLATIVE SESSION -- 1975

D

[illegible]

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

Date 3/13 Bill No. 154 Time 3:15

NAME	YES	NO
SEIBEL, Ann, Vice Chairman	X	
BLAYLOCK, Chet	X	
COLEBERG, Richard A.	X	
HIMSL, Matt	X	
LEE, Robert E.	X	
OLSON, S.A.	X	
STEPHENS, Stan	X	
NORMAN, Bill, Chairman		X

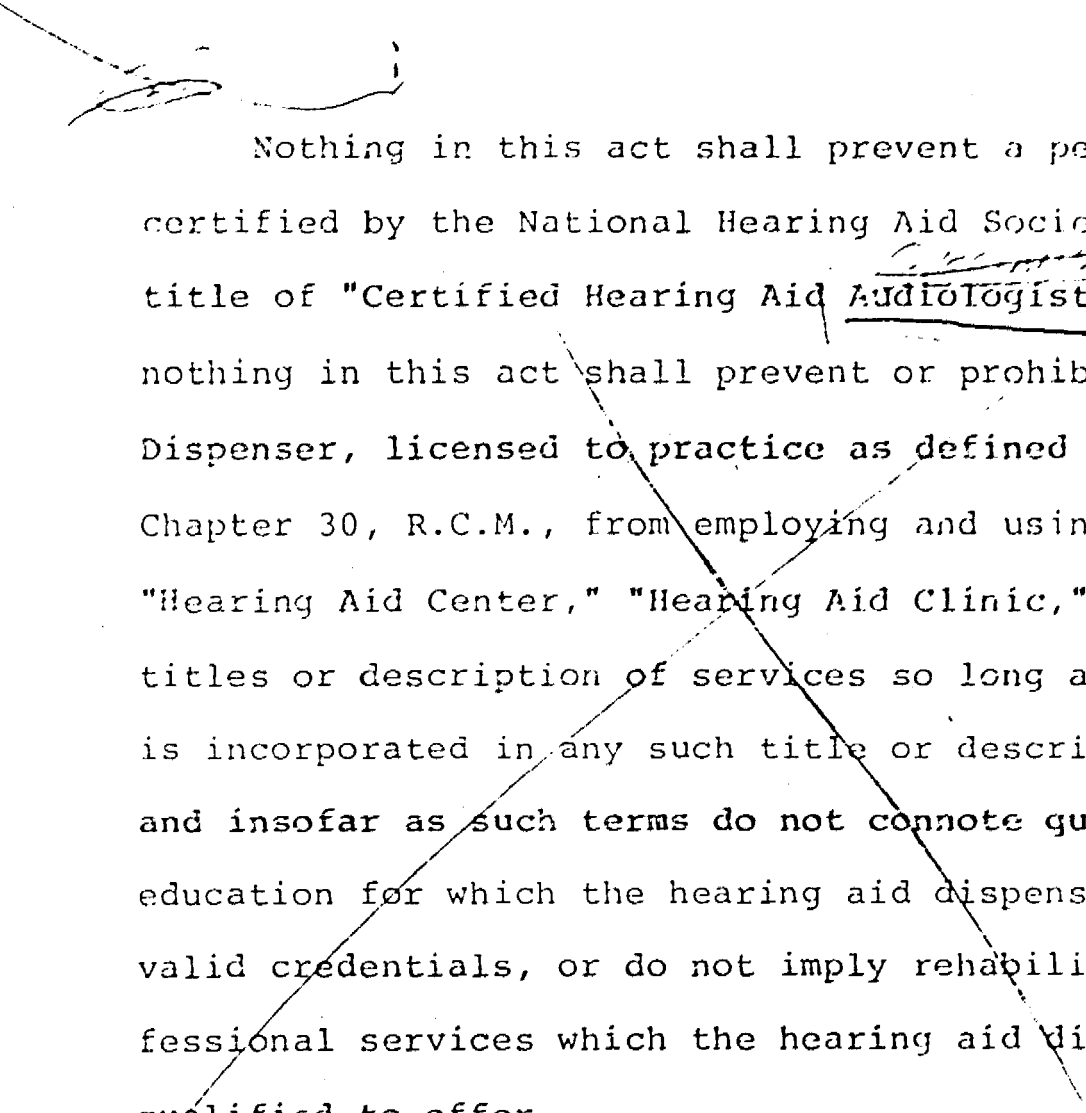
VICKIE DAWN MAST
Secretary

BILL NORMAN
Chairman

Motion: Senator Lee moved this 1st offered
amendment be put in place of the
present section 7.

(include enough information on motion--put with yellow copy of committee report.)

27, sec. 9, following *(17)*
Nothing in this act shall prevent a person licensed under Title 66, Chapter 30, R.C.M., as ~~a hearing aid~~ dispenser from engaging in the practice of measuring, testing, appraisal, prediction, counseling, and instructions related to fitting, usage, and dispensing of hearing aids.


Nothing in this act shall prevent a person who has been certified by the National Hearing Aid Society from using the title of "Certified Hearing Aid Audiologist,"  Additionally, nothing in this act shall prevent or prohibit any Hearing Aid Dispenser, licensed to practice as defined in Title 66, Chapter 30, R.C.M., from employing and using such terms as "Hearing Aid Center," "Hearing Aid Clinic," or any similar titles or description of services so long as the word "Aid" is incorporated in any such title or description of service, and insofar as such terms do not connote qualifications or education for which the hearing aid dispenser does not have valid credentials, or do not imply rehabilitative or professional services which the hearing aid dispenser is not qualified to offer.

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

Date _____ Bill No. 154 Time _____

NAME	YES	NO
SEIBEL, Ann, Vice Chairman	X	
BLAYLOCK, Chet	X	
COLBERG, Richard A.	X	
HIMSL, Matt		X
LEE, Robert E.		
OLSON, S.A.		X
STEPHENS, Stan	X	
NORMAN, Bill, Chairman	X	

VICKIE DAWN MAST
SecretaryBILL NORMAN
ChairmanMotion: The Senator Blaylock moved
H.R. 154 Be Concurred in as amended.

(include enough information on motion--put with yellow copy of committee report.)

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration House Bill No. 154

Respectfully report as follows: That House Bill No. 154
third reading (blue) copy, be amended as follows:

1. Amend page 7, section 7, lines 9 through 13.

Following: "(7)"

Strike: lines 9 through 13 in their entirety

Insert: "Nothing in this act shall prevent a person licensed under Title 66, Chapter 30, R.C.M., as a hearing aid dispenser from engaging in the practice of measuring, testing, appraisal, prediction, counseling, and instructions related to fitting, usage, and dispensing of hearing aids."

AND AS SO AMENDED, BE CONCURRED IN

~~CONFIDENTIAL~~

HOUSE BILL NO. 154

INTRODUCED BY BARDANOUVE, MERCER, BRADLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSING AND REGULATION OF PERSONS IN MONTANA REPRESENTING THEMSELVES AS SPEECH PATHOLOGISTS, AUDIOLOGISTS, SPEECH PATHOLOGY OR AUDIOLOGY AIDES, AND PROVISIONALLY CERTIFIED SPEECH PATHOLOGISTS OR AUDIOLOGISTS, AND CREATING A BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY, PRESCRIBING ITS POWERS AND DUTIES; PROVIDING PENALTIES FOR VIOLATIONS; AND AMENDING SECTION 93-701-4, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. The legislature of the state of Montana declares it to be a policy of this state that in order to safeguard the public health, safety, and welfare, and to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, and to protect the public from unprofessional conduct by qualified speech pathologists and audiologists, and to help assure the availability of the highest possible quality speech pathology and audiology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering speech pathology or audiology services to the public.

Section 2. Definitions. As used in this act:

(1) "Board" means the board of speech pathologists and audiologists.

(2) "Department" means the department of professional and occupational licensing.

(3) "Speech pathologist" means one who practices speech pathology and who presents himself to the public by any title or description of services incorporating the words "speech pathologist", "speech correctionist", "speech therapist", "speech clinician", "language pathologist", "language therapist", "language clinician", or any similar title or description of services.

(4) "Speech pathology aide" means any person meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed speech pathologist.

(5) "Audiologist" means a person who practices audiology and who presents himself to the public by any title or description of services incorporating the words "audiologist", "hearing clinician", "hearing therapist", or any similar title or description of service.

(6) "Audiology aide" means any person, meeting the minimum requirements established by the board of speech pathology and audiology who works directly under the supervision of a licensed audiologist.

(7) "Practice of speech pathology" means the application of principles, methods and procedures for the measurement, testing, evaluation, prediction, counseling or instruction related to the development and disorders of speech, voice, or language for the purpose of evaluation, preventing, habilitating, rehabilitating, or modifying such disorders and conditions in individuals or groups of individuals.

(8) "Practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory behavior related to hearing impairment.

(9) "Association" means the Montana speech and hearing association.

(10) "ASHA" means the American speech and hearing association.

(11) "Unethical conduct" means:

(a) the obtaining of any fee by fraud or misrepresentation;

(b) employing directly or indirectly any suspended or unlicensed person to perform any work covered by this act unless that person assumes the legal status of a supervised

aide;

(c) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceiving, improbable or untruthful.

(12) "Provisionally licensed speech pathologist or audiologist" means those speech pathologists or audiologists who are currently practicing the profession in the state of Montana, who do not meet the minimum requirements for licensure as defined in this act and who are eligible for provisional licensure conditioned on biennial evidence of satisfactory progress towards meeting the requirements for licensure as provided in this act. This provisional licensure, as defined in this act, shall exist for no longer than six (6) years from the date of enactment of this act under any circumstance.

Section 3. License required. (1) A license shall be issued to qualified persons either in speech pathology or audiology. A person may be licensed in both areas if he meets the respective qualifications and in such instances the license fee shall be as though for one (1) license.

(2) No person may practice or represent himself as a speech pathologist or audiologist in this state unless he is licensed in accordance with the provisions of this act.

Section 4. License requirements to practice speech pathology or audiology — exempt activities. (1) Nothing in this act shall prevent a person licensed in this state under any other law from engaging in the profession or business for which he is licensed.

(2) Nothing in this act shall restrict or prevent activities of a speech pathology or audiology nature or the use of the official title of the position for which they were employed on the part of a speech pathologist or audiologist employed by federal agencies.

(3) Those persons performing activities described in subsection (2) of this section who are not licensed under this act must do so solely within the confines of or under the jurisdiction of the organization in which they are employed and shall not offer speech pathology or audiology services to the public for compensation over and above the salary they receive for performance of their official duties with organizations by which they are employed. However, without obtaining a license under this act, such persons may consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee without being licensed under this act.

(4) Nothing in this act shall restrict activities and

services of a student in speech pathology or audiology from pursuing a course of study in speech pathology or audiology at an accredited or approved college or university or an approved clinical training facility. However, these activities and services must constitute a part of his supervised course of study and no fee shall accrue directly or indirectly to the student. These persons shall be designated by the title "speech pathology or audiology intern", "speech pathology or audiology trainee" or a title clearly indicating the training status appropriate to his level of training.

(5) Nothing in this act shall restrict a person from another state from offering speech pathology or audiology services in this state if such services are performed for no more than five (5) days in any calendar year and if the services are performed in cooperation with a speech pathologist or audiologist licensed under this act. However a person not a resident of this state who is not licensed under this act but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by this act, or who is the holder of the ASHA certificate of clinical competency in speech pathology or audiology or its equivalent, may offer speech pathology or audiology services in this state for no more than thirty (30) days in any calendar year, if such

services are performed in cooperation with a speech pathologist or audiologist licensed under this act and by securing a temporary license from the board subject to such limitations as the board may impose.

(6) Nothing in this act shall restrict any person holding a Class A certificate issued by the conference of executives of American schools of the deaf from performing the functions for which he qualifies.

(7) ~~Nothing in this act shall restrict any person who holds a certificate of registration in this state as a hearing aid dealer from performing those functions for which he qualifies and which are described in Title 66, chapter 30. NOTHING IN THIS ACT SHALL PREVENT A PERSON LICENSED UNDER TITLE 66, CHAPTER 30, R.C.M. 1947, AS A HEARING AID DISPENSER FROM ENGAGING IN THE PRACTICE OF MEASURING, TESTING, APPRAISAL, PREDICTION, COUNSELING, AND INSTRUCTIONS RELATED TO FITTING, USAGE, AND DISPENSING OF HEARING AIDS.~~
 NOTHING IN THIS ACT SHALL RESTRICT ANY PERSON WHO HOLDS A CERTIFICATE OF REGISTRATION IN THIS STATE AS A HEARING AID DEALER FROM PERFORMING THOSE FUNCTIONS FOR WHICH HE QUALIFIES AND WHICH ARE DESCRIBED IN TITLE 66, CHAPTER 30.

Section ~~4~~ 5. There is a new R.C.M. section numbered 82A-1602.28 that reads as follows:

82A-1602.28. Board of speech pathologists and audiologists -- appointment -- qualifications.

(1) There is a board of speech pathologists and audiologists.

(2) The board consists of five (5) members, ~~who~~ FOUR (4) OF WHOM shall:

(a) be appointed by the governor from names submitted to him by the association;

(b) have been residents of this state for at least one (1) year immediately preceding their appointment; and

(c) have been engaged in rendering services to the public, teaching, or performing research in the field of speech pathology or audiology for at least five (5) years immediately preceding their appointment.

(3) At least two (2) members of the board shall be speech pathologists and at least two (2) shall be audiologists, with the remaining member to be either A PUBLIC MEMBER WHO IS A CONSUMER OF SPEECH PATHOLOGY OR AUDIOLOGY SERVICES AND WHO IS NOT A LICENSEE OF THE BOARD OR OF ANY OTHER BOARD WITHIN THE DEPARTMENT. All board members shall at all times be validly licensed in speech pathology or audiology, except for the five (5) members first appointed, who shall also fulfill the licensure requirements of this act and in addition hold the ASHA certificate of clinical competence in speech pathology or audiology or its equivalent.

(4) Within thirty (30) days following the effective

1 date of this act the association shall recommend at least
 2 three (3) and no more than five (5) persons for each of the
 3 five (5) board positions created by subsection (2) of this
 4 section. Not less than sixty (60) days before the end of
 5 the board's first full calendar year of existence and,
 6 thereafter, not less than sixty (60) days before the end of
 7 each calendar year, the association shall recommend at least
 8 three (3) and not more than five (5) persons for each
 9 vacancy occurring at the end of the calendar year. In the
 10 event of a vacancy for an unexpired term, the association
 11 shall expeditiously recommend at least two (2) and not more
 12 than three (3) persons to fill the vacancy and the governor
 13 shall appoint one of those persons to fill the unexpired
 14 term.

15 (5) The governor shall, within sixty (60) days after
 16 the effective date of this act, appoint one (1) board member
 17 for a term of one (1) year; two (2) for a term of two (2)
 18 years; and two (2) for a term of three (3) years.
 19 Appointments made thereafter shall be for three (3) year
 20 terms with no person eligible to serve more than two (2)
 21 full consecutive terms. Terms begin on the first day of the
 22 calendar year and end on the last day of the calendar year,
 23 except for the first appointed members who shall serve
 24 through the last calendar day of the year in which they are
 25 appointed before commencing the terms defined in this

1 section.

2 Section 6. Function of the board and department.

3 (1) The board shall meet at least once every year at a
 4 place, day and hour determined by the board. The board
 5 shall also meet at other times and places as the bylaws of
 6 the board may provide or by call of the chairman or a
 7 majority of the members of the board. A quorum of the board
 8 shall consist of the majority of its members, but in no
 9 instance shall a meeting of three (3) board members who are
 10 exclusively speech pathologists or exclusively audiologists
 11 be considered a quorum.

12 (2) Each board member shall receive actual and
 13 necessary expenses incidental to board meetings and
 14 business. Mileage shall be as provided in section 59-801.

15 (3) The department may employ persons it deems
 16 necessary to carry out the provisions of this act.

17 (4) All meetings of the board for the consideration of
 18 and action on matters coming before the board are open to
 19 the public, except:

20 (a) matters involving the management of internal
 21 affairs of the board may be considered and acted upon by the
 22 board in executive meetings under rules prescribed by the
 23 board;

24 (b) sessions to prepare, approve, grade or administer
 25 examinations;

1 (c) upon request of a person who has failed the
2 licensing examinations and who is appearing to appeal the
3 failure.

4 (5) The board may make all rules which are reasonable
5 or necessary for the proper performance of its duties and
6 for the regulation of proceedings before it.

7 (6) The department shall prepare a report to the
8 governor as required by law.

9 (7) The board shall:

10 (a) administer, coordinate and enforce the provisions
11 of this act;

12 (b) evaluate the qualifications of each applicant for
13 a license as issued under this act and supervise the
14 examination of such applicants;

15 (c) investigate persons engaging in practices which
16 allegedly violate the provisions of this act;

17 (d) conduct hearings and keep records and minutes as
18 the board considers necessary to an orderly dispatch of
19 business;

20 (e) adopt rules including but not limited to those
21 governing ethical standards of practice under this act;

22 (f) make recommendations to the governor and other
23 state officials regarding new and revised programs and
24 legislation related to speech pathology or audiology which
25 could be beneficial to the citizens of the state of Montana;

1 (g) cause the prosecution and enjoinder of all persons
2 violating this act, by the complaints of its secretary filed
3 with the county attorney, in the county where the violation
4 took place, and incur necessary expenses therefor;

5 (h) adopt a seal by which the board shall authenticate
6 its proceedings. Copies of the proceedings, records, and
7 acts of the board, signed by the chairman or secretary of
8 the board and stamped with the seal shall be prima facie
9 evidence of the validity of such documents.

10 Section 7. Qualifications and requirements for
11 licensure. To be eligible for licensing by the board as a
12 speech pathologist or audiologist, the applicant must:

13 (1) meet the current academic, supervised clinical
14 practicum and post classroom sponsored employment
15 requirements of the ASHA;

16 (2) pass an examination approved by the board. The
17 board shall determine the subject and scope of the
18 examination. Written examinations may be supplemented by
19 such oral examinations as the board shall determine. An
20 applicant who fails his examination may be reexamined at a
21 subsequent examination upon payment of another licensing
22 fee. An applicant who fails two successive examinations may
23 apply for reexamination after two years of additional
24 professional experience or training.

25 Section 8. Licensure issuance — expiration —

1 renewal. (1) The board shall grant a license to each
2 person who meets the requirements for licensure as
3 prescribed in this act, and the department shall issue the
4 license.

5 (2) The license shall include the dates of issuance
6 and expiration, and shall bear a serial number.

7 (3) The license shall be signed by the secretary of
8 the board under the seal of the board.

9 (4) The department shall notify each person licensed
10 under this act relative to the date of expiration of his
11 license and the amount of the renewal fee. This notice shall
12 be mailed to each licensed speech pathologist or audiologist
13 at least one (1) month before the expiration of the license.

14 (5) Renewal may be made at any time during the sixty
15 (60) days prior to the expiration date by application
16 therefor.

17 (6) Failure on the part of any licensed person to pay
18 the renewal fee by the expiration date does not deprive him
19 of the right to renew his license, but the fee shall be
20 increased ten percent (10%) for each month that the payment
21 of the renewal fee is delayed after the expiration date.
22 The maximum fee for delayed renewal shall not exceed twice
23 the normal renewal fee.

24 (7) Application for renewal following a lapse of one
25 (1) year or more shall be subject to review by the board,

1 and the applicant may be requested to complete an
2 examination successfully if the board so determines.

3 (8) Each year the department shall publish a list of
4 all persons licensed under the act containing their names
5 and addresses and such other information as the board
6 considers advisable. The department shall mail a copy of
7 this list to each person licensed under this act, place a
8 copy on file in the secretary of state's office, and furnish
9 copies to the public upon request.

10 (9) The board shall develop standards and methods of
11 documentation and establish procedures for causing
12 individuals who have been licensed to demonstrate continued
13 education before renewing any license more than twice.

14 Section 9. Qualifications and requirements for
15 licensure — reciprocity and waiver. (1) Application for
16 examination for licensing a speech pathologist or
17 audiologist shall be made upon forms prescribed by the
18 board.

19 (2) Prior to July 1, 1976, the board shall license as
20 a speech pathologist or audiologist any person who pays the
21 prescribed fee, and who submits an affidavit that he meets
22 the current academic, supervised clinical practicum and post
23 classroom sponsored employment requirements of the ASHA.

24 (3) Prior to July 1, 1976, a provisional license may
25 be issued to an individual who holds a bachelor's degree

1 with a major in speech pathology or audiology, who has
2 accumulated one hundred seventy-five (175) clock hours of
3 clinical practicum, and who has worked in this state as a
4 speech pathologist or audiologist for at least one (1)
5 academic year. The provisionally-licensed speech
6 pathologist or audiologist must work under the direct
7 supervision of a licensed or certified speech pathologist or
8 audiologist. The extent to which direct supervision will be
9 provided for the provisionally-licensed speech pathologist
10 or audiologist will be determined by the supervising
11 clinician. Generally, the supervising speech pathologist or
12 audiologist shall provide direct assistance to the
13 provisionally-licensed speech pathologist or audiologist at
14 least four (4) days per month. Most of the contacts by the
15 supervising speech pathologist or audiologist shall be in
16 person, but other avenues of contact may be made. Those
17 persons granted provisional licensure shall complete the
18 academic, clinical practicum and examination requirements
19 for licensure within six (6) years after the effective date
20 of this act. Twelve (12) quarter-hour credits of additional
21 professional training towards licensure qualifications or
22 any other proposed educational plan that leads to the same
23 goal as presented to and approved by the board, must be
24 obtained every two (2) years for renewal of provisional
25 licensure. Provisionally-licensed speech pathologists or

1 audiologists who have not attained appropriate eligibility
2 status within six (6) years of the date of enactment, will
3 no longer be eligible to practice speech pathology or
4 audiology in the state of Montana, except for those persons
5 granted certification under subsection (8) of this section,
6 but may work as a speech pathology or audiology aide as
7 defined in this act.

8 (4) After July 1, 1976, all applicants must meet all
9 the requirements set forth in this act.

10 (5) The board may waive the examination described in
11 this act for those qualified applicants who, on the
12 effective date of this act, are actively engaged in the
13 practice of speech pathology or audiology in this state,
14 providing that they file a license application within one
15 (1) year of the effective date of this act.

16 (6) The board shall waive the examination and grant a
17 license to applicants who present proof of a current license
18 in a state which has standards equivalent to or greater than
19 those of this state.

20 (7) The board shall waive the examination and grant a
21 license to those who hold the certificate of clinical
22 competence of the American speech and hearing association in
23 the area for which they are applying for a license.

24 (8) The board shall, on presentation and documentation
25 in writing by a petitioner have the prerogative of granting

1 licensure to an individual who does not have all the formal
2 requirements specified in this act. This prerogative shall
3 be used only for unusual or special circumstances and shall
4 be determined by the board in each individual case.

5 Section 10. Examination. (1) Except as otherwise
6 provided in this act, an applicant shall be examined for
7 speech pathology or audiology by the board, and shall pay to
8 the board, at least thirty (30) days prior to the date of
9 the examination, the examination fee for each examination as
10 prescribed by this act.

11 (2) The board shall examine by written examination
12 given at least twice a year at a time and place and under
13 such supervision as the board may determine. In addition an
14 oral examination may be required by the board. Standards
15 for acceptable performance shall be determined by the board.

16 (3) The board may waive the written examination for
17 certification if the applicant has successfully passed the
18 national examination in speech pathology or audiology.

19 (4) The board may examine or direct the applicant to
20 be examined for knowledge in whatever theoretical or applied
21 fields of speech pathology or audiology as it considers
22 appropriate. It may also examine the candidate with regard
23 to his professional skills and his judgment in the
24 utilization of speech pathology or audiology techniques and
25 methods.

1 (5) The department shall maintain a permanent record
2 of all examination scores.

3 (6) The board shall keep an accurate transcript of the
4 oral examination if any. Transcripts of oral examinations
5 shall be retained by the board for at least one (1) year
6 following the date of examination.

7 (7) A speech pathologist or audiologist who holds ASHA
8 certification or equivalent or is licensed in another state
9 and who has made application to the board for a license in
10 this state, may perform activities and services of a speech
11 pathology or audiology nature without a valid license
12 pending disposition of application.

13 Section 11. Licensing. (1) The amount of fees
14 prescribed in connection with a license as a speech
15 pathologist or audiologist shall be as follows, the exact
16 fee to be determined by the board each year based on costs
17 and predicted expenditures:

18 (a) application and examination fee for a license, no
19 less than fifty dollars (\$50) nor more than one hundred
20 dollars (\$100);

21 (b) license fee, and renewal thereof, no less than
22 twenty-five dollars (\$25) nor more than one hundred dollars
23 (\$100).

24 (2) All moneys received by the department shall be
25 deposited in the state treasury to the credit of the

earmarked revenue fund for the use of the board and subject to section 82A-1603(6) .

(3) Each licensed speech pathologist or audiologist shall on or before July 31 of the year of expiration of his license pay to the board the fee for the renewal of his license.

(4) Renewal will be every two years beginning on July 1 of the appropriate year.

(5) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal does not entitle the licensee while the license remains suspended to engage in the licensed activity, or in any other activity or conduct which violates the order or judgment by which the license was suspended.

(6) A license revoked on disciplinary grounds is subject to expiration, and it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(7) A person who fails to renew his license within the four (4) years after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter; but

such a person may reapply for and obtain a new license if he meets the requirements of the act.

(8) No license tax shall be imposed upon speech pathologists or audiologists by a municipality or any other subdivision of the state.

Section 12. Powers of board over licensees — unprofessional conduct defined. (1) The board may refuse to issue or renew a license, or may suspend or revoke the license of any licensee if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to:

(a) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(b) being found guilty of unprofessional conduct, or having violated ethical standards of practice established pursuant to this act;

(c) violating any lawful order or rule of the board;

(d) violating any provision of this act.

(2) Denial, suspension or revocation of a license is permissible only after a hearing and procedures which comply with all applicable requirements of the Montana Administrative Procedure Act.

(3) One year after denial, suspension, or revocation of a license, a person may reapply for a license. The board

1 may in its discretion require an examination for
2 reinstatement.

3 (4) Where an applicant or licensee has been convicted
4 of a felony or a crime involving moral turpitude, the board
5 may suspend or revoke his license, or may decline to issue a
6 license when:

7 (a) the time for appeal has elapsed;

8 (b) the judgment of conviction has been affirmed on
9 appeal;

10 (c) an order granting probation is made suspending the
11 imposition of sentence.

12 Section 13. Penalty. A person convicted of violating
13 this act shall be fined not to exceed five hundred dollars
14 (\$500) or be imprisoned in the county jail for any term not
15 to exceed six (6) months, or both.

16 Section 14. Injunction of unlawful practice —
17 restrictions on scope of practice. The practice of speech
18 pathology or audiology in any way other than as defined in
19 this act may be enjoined by the district court on petition
20 by the board.

21 Section 15. Section 93-701-4, R.C.M. 1947, is amended
22 to read as follows:

23 "93-701-4. Persons in certain relations cannot be
24 examined. There are particular relations in which it is the
25 policy of the law to encourage confidence and to preserve it

1 inviolate; therefore, a person cannot be examined as a
2 witness in the following cases:

3 1. A husband cannot be examined for or against his
4 wife without her consent; nor a wife for or against her
5 husband without his consent; nor can either, during the
6 marriage or afterward, be, without the consent of the other,
7 examined as to any communication made by one to the other
8 during the marriage; but this exception does not apply to a
9 civil action or proceeding by one against the other, nor to
10 a criminal action or proceeding for a crime committed by one
11 against the other.

12 2. An attorney cannot, without the consent of his
13 client, be examined as to any communication made by the
14 client to him, or his advice given thereon in the course of
15 professional employment.

16 3. A clergyman or priest cannot, without the consent
17 of the person making the confession, be examined as to any
18 confession made to him in his professional character in the
19 course of discipline enjoined by the church to which he
20 belongs.

21 4. A licensed physician or surgeon cannot, without the
22 consent of his patient, be examined in a civil action as to
23 any information acquired in attending the patient, which was
24 necessary to enable him to prescribe or act for the patient.

25 5. A public officer cannot be examined as to

1 communications made to him in official confidence, when the
2 public interests would suffer by the disclosure.

3 6. Any person engaged in teaching psychology in any
4 school, or who acting as such is engaged in the study and
5 observation of child mentality, shall not without the
6 consent of the parent or guardian of such child being so
7 taught or observed testify in any civil action as to any
8 information so obtained.

9 7. A counselor, psychologist, nurse, or teacher,
10 employed by any educational institution, cannot be examined
11 as to communications made to him in confidence by a duly
12 registered student of such institution, provided however,
13 that this provision shall not apply where consent has been
14 given by the student, if not a minor, or if he is a minor,
15 by the student and his parent or legal guardian.

16 8. A publisher, editor, reporter or other person
17 connected with or employed upon a newspaper, or by a press
18 association or wire service, or any person who has been so
19 connected or employed, cannot without his consent be
20 examined as to any communication made to him in confidence
21 for the purpose of proper publication nor shall he be
22 adjudged in contempt by a court, the legislature or any
23 administrative body for refusing to disclose the source of
24 any information procured while so connected or employed for
25 publication and published in a newspaper.

1 Nor can a radio or television news reporter or other
2 person connected with or employed by a radio or television
3 station, or any person who has been so connected or
4 employed, without his consent be examined as to any
5 communication made to him in confidence for the purpose of
6 proper publication nor shall he be so adjudged in contempt
7 for refusing to disclose the source of any information
8 procured while so connected or employed for news or news
9 commentary purposes on radio or television.

10 9. A speech pathologist or audiologist cannot, without
11 the consent of his client, be examined IF A CIVIL ACTION as
12 to any communication made by the client to him."

-End-